



October 12, 1998

The Honorable William Kennard
Chairman
The Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 46226

CC DOCKET NO. 98-141

**RE: Proposed SBC-Ameritech Merger
Public Comment File**

Dear Chairman Kennard:

Few bills I had the privilege of working on as a Congressional staff member gave me more satisfaction than playing a role, however small, in the passage of the Telecommunications Act of 1996. It was without a doubt one of the most satisfying legislative milestones during my tenure. This was true because of its promise to enhance telecommunications competition as well as its embodiment of a rare act of foresight by Congress. In my 15 years on Capitol Hill, as a Chief of Staff and Press Secretary, as someone who worked in both the House and Senate, on personal staffs as well as Committee staffs, and on campaigns as well as in policy positions, I saw such Congressional foresight all too rarely. This is one of the prime reasons I have agreed to serve as the Vice President of the Hudson Institute, one of the nation's leading think tanks, where foresight is our daily passion. The Hudson Institute is also one of the few public policy development organizations that has focused on telecommunications issues in any detail. It is from this vantage point -- as someone who went through the wars surrounding the Telecommunications Act as well as someone who has the objectivity and perspective a think tank affords -- that I write the Commission to offer a public comment on the proposed merger of SBC and Ameritech.

Let me begin by stating my view of the role and the overarching goal the Commission should keep before itself as you and your fellow Commissioners weigh this important matter. Historically, the Commission has been charged with overseeing the nation's communications system in the public interest, necessity and convenience. Furthermore, when Congress speaks clearly on an issue, such as its clear and uncompromising commitment to encouraging competition as stated in the 1996 Act, I believe the Commission must take all proper and prudent steps to fulfill Congressional intent as it regulate and administer said public stewardship opportunities. This historical role and the clear Congressional intent require, I believe, that the Commission take steps within its power to foster competition, encourage innovation, and help America remain the world's telecommunications service and equipment provider while protecting consumers.

The next critical issue to take note of is what the marketplace is telling us about telecommunications. Again, markets engineer industries -- with their inherent reward and punishment systems -- particularly ones as large and diverse as the telecommunications industry in all its myriad expressions. The Commission can, at best, steer events in the short-term to unleash the pro-consumer and pro-competition outcomes that are the hallmarks of job-creating and wealth-building markets. This is not to minimize the

HERMAN
K A H N
CENTER
WASHINGTON
INDIANAPOLIS
BOSTON
SAN FRANCISCO
NEW YORK
CHICAGO
ATLANTA
DALLAS
HOUSTON
LOS ANGELES
MIAMI
MINNEAPOLIS
PHILADELPHIA
PORTLAND
SAN JOSE
SEATTLE
SILICON VALLEY
TAMPA
WASHINGTON
WICHITA
WISCONSIN

INDIANAPOLIS
WASHINGTON
MIAMI
BOSTON
SAN FRANCISCO
NEW YORK
CHICAGO
ATLANTA
DALLAS
HOUSTON
LOS ANGELES
MIAMI
MINNEAPOLIS
PHILADELPHIA
PORTLAND
SAN JOSE
SEATTLE
SILICON VALLEY
TAMPA
WASHINGTON
WICHITA
WISCONSIN

No. of Copies rec'd
ANABOBE

2

The Honorable William Kennard
October 12, 1998
Page Two

Commission's role, but rather to recognize that markets cannot be ignored nor overridden. And what are the markets telling us? Well, just since the passage of the Telecommunications Act, AT&T has merged with TCI; MCI and WorldCom have formed a global powerhouse telecommunications company; and Bell Atlantic and NYNEX merged. Apparently bigger is better, or at least bigger is better for the companies and partnerships that choose to remain or become major, full-service telecommunications providers. Other firms, of course, may choose to be niche players, a role that can be both very valuable and lucrative. But the message from world markets, where competition has been unleashed, is also undeniable: major mergers with the economies of scale as well as the access to larger sums of capital they provide is the pattern and will soon be the practice of this industry.

That provides, then, the framework that I believe the Commission must bring to the SBC-Ameritech proposed merger:

1. The Commission's role is to foster telecommunications policies and practices, including approving mergers and consolidations, that further the public interest, necessity and convenience;
2. Congress has clearly stated competition between (and among) the long-distance providers and the local operating companies is the preferred future;
3. Markets are stating with great clarity and emphasis that consolidation should occur as this industry goes through a transformation driven by technology, consumer demand and growing globalization.

The approach the Commission should take, then, is to serve the public while encouraging competition in light of a rapid worldwide consolidation. What does this suggest for the SBC-Ameritech merger? I believe it gives the Commission an opportunity to achieve the above goals and accelerate the forces that have been frustrated rather than fostered by the administration of the Telecommunications Act. In other words, the Commission has an excellent opportunity to use the proposed merger as a vehicle to obtain reasonable assurances from these two firms that they will, together, take steps to open up their markets to the desired competitive forces now frustrated by the so-called 14-point checklist and the ongoing stand-off between the local operating companies and long-distance providers. It has been two years since the Telecommunications bill passed, and the FCC has approved no local-long distance entry yet in any significant market! Furthermore, the great geographic range of these two companies, should a merger be approved, would allow a breaking of the proverbial logjam relative to long-distance and local providers, because of the number and diversity of the markets to be opened to fuller competition. And here I note that the SBC-Ameritech merger, I'm sure the Commission is aware, would create a geographic merger rather than a horizontal concentration.

The Commission has the right, indeed the duty, to review the details and ramifications of this proposed merger. But in the end, I believe the Commission must keep its eye on the larger issues. Is this good for consumers? Will this proposal provide the Commission a way to achieve a fuller realization of Congressionally-passed policy objectives for the nation? Will the Commission's decisions foster or frustrate otherwise healthy market forces?

The Honorable William Kennard
October 12, 1998
Page Three

I cannot pretend to be an expert on the myriad technical issues this proposed merger places before the Commission. Nor am I a scholar who has studied the public policy and legal issues in any great detail. To that end, I commend the work of my Hudson colleague, Dr. Thomas Duesterberg, a true telecommunications expert, who also served as an Assistant Secretary of Commerce during the Bush Administration. But I have been a student of this industry as a Congressional Chief of Staff when the bill was before the Congress. With those experiences guiding me, I believe the Commission should approve the merger absent compelling reasons showing that it will frustrate Congressional goals or that it is not in the best interest of consumers (as this term is broadly understood). Furthermore, I believe this merger provides the Commission an opportunity to creatively approach its regulatory responsibilities and begin to take some of the nonsensical complexity out of the consumer's life by breaking down the artificial, regulatory boundaries that give us separate Internet Service Providers, separate beeper companies, separate local providers, separate long-distance providers, separate cable providers, separate satellite dish providers, separate (in some cases) cellular providers, and the like. Such diversity is good to a degree, but there comes a point -- a point we have long passed as world markets seem to be suggesting -- when the government's regulatory and legal pronouncements complicate rather than enhance the consumer's life and tax his or her wallet.

Thank you for considering my comments and for allowing me this opportunity to address this important issue before the Commission. I look forward to learning of your considered judgment on this important public policy issue.

Sincerely,



Curt Smith
Vice President
The Hudson Institute, Inc.

CC: Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Harold Furchtgott-Roth
Commissioner Gloria Tristani
Mr. Charles Fisher, Executive Director, Illinois Commerce Commission
Chairman Craig Glazer, The Public Utilities Commission of Ohio